UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

Ryan E. M. Cunningham
Cunningham Energy, LLC
ryan.cunningham@cunninghamenergy.com

Re: Notice of Violation and Opportunity to Confer
Clean Air Act
Cunningham Energy, LLC

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Notice of Violation and Opportunity to Confer ("NOVOC") to Cunningham Energy, LLC ("Cunningham"). The EPA is issuing this NOVOC pursuant to Section 113(a) of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7413(a). Based on information currently available and described in detail below, the EPA finds that Cunningham is in violation of the CAA, the implementing regulations of the CAA, and provisions of the West Virginia State Implementation Plan, including West Virginia permitting requirements and the terms and conditions of the Construction Permit (R13-3370) for the King Pad and terms and conditions of the Class II General Permit G70-D Registration to Construct (G70-D223) for the Cochran Pad at Cunningham's oil and natural gas production operations located at Shelton Road, Bomont, WV 25030. Section 113(a) of the Act, 42 U.S.C. § 7413(a), provides the EPA several enforcement options to resolve these violations.

By this letter, the EPA is extending to you an opportunity to advise the EPA, via a conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations.

The EPA contact in this matter is Bruce Augustine, augustine.bruce@epa.gov or (215) 814-2131, or if you have obtained counsel regarding this matter, please have your attorney contact Hannah Leone, Assistant Counsel at leone.hannah@epa.gov or (215) 814-2673, within **thirty (30) days** following receipt of this NOVOC if Cunningham would like to schedule such a conference. The EPA may pursue enforcement options if there is no response to this letter.

Sincerely,

KAREN MELVIN

Digitally signed by KAREN MELVIN
Date: 2021.12.02 16:18:50 -05'00'

Karen Melvin, Director
Enforcement & Compliance Assurance Division

Enclosure: Notice of Violation and Opportunity to Confer

cc: Bruce Augustine, EPA Region 3 (Augustine.bruce@epa.gov)
Hannah Leone, EPA Region 3 (leone.hannah@epa.gov)

Re: *Notice of Violation and Opportunity to Confer*
Clean Air Act
Cunningham Energy, LLC

Doug Hammel, WVDEP (douglas.n.hammel@wv.gov)
Jesse Adkins, WVDEP (jesse.d.adkins@wv.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

IN THE MATTER OF:	:	
	:	
CUNNINGHAM ENERGY, LLC	:	**NOTICE OF VIOLATION AND**
3230 Pennsylvania Avenue	:	**OPPORTUNITY TO CONFER**
Charleston, WV 25302	:	
	:	**U.S. EPA Docket No. CAA-003-22-0003**
RESPONDENT,	:	
	:	**Proceeding under Section 113(a) of the Clean**
CUNNINGHAM ENERGY, LLC	:	**Air Act, 42 U.S.C. § 7413(a)**
Shelton Road	:	
Bomont, WV 25030	:	
	:	
	:	
FACILITY.	:	

NOTICE OF VIOLATION AND OPPORTUNITY TO CONFER

The U.S. Environmental Protection Agency ("EPA") is providing this Notice of Violation and Opportunity to Confer ("NOVOC") under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a) ("the Act" or "CAA"), to inform Cunningham Energy, LLC ("Cunningham") of violations set forth in detail in the paragraphs that follow.

Based on information currently available, the EPA alleges that Cunningham is in violation of the West Virginia State Implementation Plan ("WV SIP") and the CAA at its oil and gas production facilities located at Shelton Road in Bomont, WV 25030.

I. STATUTORY AND REGULATORY BACKGROUND

1. The purpose of the CAA is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).

National Ambient Air Quality Standards

2. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. These pollutants are known as "criteria pollutants."

3. For each such "criteria" pollutant, Section 109 of the CAA requires the EPA to promulgate national ambient air quality standards ("NAAQS") requisite to protect the public health and welfare. 42 U.S.C. § 7409.

4. Section 110 of the CAA requires each state to adopt and submit to the Administrator of the EPA for approval a plan that provides for the attainment and maintenance of the NAAQS in each air quality control region within each state. 42 U.S.C. § 7410. This plan is known as a State Implementation Plan ("SIP").

5. Upon the EPA's approval, the SIP requirements are federally enforceable under Section 113 of the CAA, 42 U.S.C. § 7413(a) and (b). 40 C.F.R. § 52.23.

The West Virginia State Implementation Plan

6. At all times relevant to this NOVOC, the applicable sections of the West Virginia Code of State Rules listed herein have been approved by the EPA and incorporated into the federally enforceable West Virginia SIP. 40 C.F.R. § 52.2520(c).

7. The WV SIP regulations are located at Title 45 of the Code of State Rules ("CSR"), and issued pursuant to the West Virginia Air Pollution Control Act, W.Va. Code, §§ 22-5-1, et seq.

8. Pursuant to W. Va. Code, § 22-5-3, "[i]t is unlawful for any person to cause a statutory air pollution, to violate the provisions of this article, to violate any rules promulgated pursuant to this article to operate any facility subject to the permit requirements of the director without a valid permit, or to knowingly misrepresent to any person in the state of West Virginia that the sale of air pollution control equipment will meet the standards of this article or any rules promulgated pursuant to this article."

9. Pursuant to W. Va. Code § 22-5-11(a), a person must obtain a permit prior to construction, modification or relocation of any stationary source of air pollutants.

10. A "person" is defined as "any and all persons, natural or artificial, including the state of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever." W. Va. Code, § 22-5-2(5); *see also* 45 CSR 13-2.18.

11. The WV SIP regulations governing Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation are currently codified at 45 CSR Series 13 and were included in the WV SIP approved by the EPA on October 5, 2018. 83 Fed. Reg. 50,266.

12. 45 CSR Series 13 describes "[t]he procedures for stationary source reporting, and the criteria for obtaining a permit to construct and operate a new stationary source which is not a major stationary source, to modify a non-major stationary source, to make modifications which are not major modifications to an existing major stationary source, to relocate non-major stationary sources within the state of West Virginia, and to set forth procedures to allow facilities to commence construction in advance of permit issuance." 45 CSR 13-1.

13. A "stationary source" is defined as a "building, structure, facility, installation, or emission unit or combination thereof." 45 CSR 13-2.24.
14. A "major stationary source" is defined as "any of the stationary sources of air pollutants listed under 45 CSR 14-2.43.a which emits, or has the potential to emit, one hundred (100) tons per year or more of any regulated NSR pollutant." 45 CSR 14-2.43; *see also* 45 CSR 13-2.16.

15. A "regulated NSR pollutant" is defined in 45 CSR 13-2.20 and includes NO_x, VOC, and particulate matter.

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

16. 40 C.F.R. Subpart JJJJ applies to manufacturers, owners, and operators of emergency stationary spark ignition ("SI") internal combustion engines ("ICE") with a maximum engine power greater than 19 Kilowatts/25 Horsepower (HP) constructed on or after January 1, 2009. 40 C.F.R. § 60.4230(a).

17. A "spark ignition" is defined as "either: a gasoline-fueled engine; or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle." 40 C.F.R. § 60.4248.

18. A "stationary internal combustion engine" is defined as "any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 C.F.R. § 1068.30 (excluding paragraph (2)(ii) of that definition), and is not used to propel a motor vehicle, aircraft, or a vehicle used solely for competition." 40 C.F.R. § 60.4248.

19. An "emergency stationary internal combustion engine" is defined as any stationary reciprocating internal combustion engine that: (1) is operated to provide electrical power or mechanical work during an emergency situation; (2) is operated under limited circumstances for situations not included in paragraph (1) of this definition as specified in 40 C.F.R. § 60.4243(d); and (3) operates as part of a financial arrangement with another entity in situations not included in paragraph (1) of this definition only as allowed in in 40 C.F.R. § 60.4243(d)(2)(ii) or (iii) and § 60.4243(d)(3)(i). 40 C.F.R. § 60.4248.

20. To be considered an emergency stationary ICE, the stationary ICE must comply with the requirements specified in 40 C.F.R. § 60.4243(d). 40 C.F.R. § 60.4248.

21. Pursuant to 40 C.F.R. § 60.4244, owners and operators of stationary SI ICE who conduct performance tests must follow the procedures in 40 C.F.R. § 60.4244(a)-(f).

22. Pursuant to 40 C.F.R. § 60.4245(b), "[f]or all stationary SI emergency ICE greater than 25 HP and less than 130 HP manufactured on or after July 1, 2008, that do not meet the standards applicable to non-emergency engines, the owner or operator of must keep records of the hours of

operation of the engine that is recorded through the non-resettable hour meter. The owner or operator must document how many hours are spent for emergency operation, including what classified the operation as emergency and how many hours are spent for non-emergency operation."

Subpart OOOOa—Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015

23. 40 C.F.R. Subpart OOOOa, applies to owners or operators of storage vessel affected facilities and well affected facilities that are "located within the Crude Oil and Natural Gas Production source category, as defined in § 60.5430a, for which they commenced construction, modification, or reconstruction after September 18, 2015." 40 C.F.R. § 60.5365a**.**

24. A "storage vessel affected facility" is defined as "[a] single storage vessel that commenced construction, reconstruction, or modification after September 18, 2015, and on or before November 16, 2020 . . . if its potential for VOC emissions is equal to or greater than 6 tons TPY." 40 C.F.R. § 60.5365a(e)(1).

25. A "well affected facility" is defined as "a single well that conducts a well completion operation following hydraulic fracturing or refracturing." 40 C.F.R. § 60.5365a(a).

26. A "well completion operation" is defined as "any well completion with hydraulic fracturing or refracturing occurring at a well affected facility." 40 C.F.R. § 60.5430a.

27. Pursuant to 40 C.F.R. § 60.5395a(a)(2), each storage vessel affected facility must comply with the VOC Standards in § 60.5395a, including to "reduce VOC emissions by 95.0 percent within 60 days after startup. For storage vessel affected facilities receiving liquids pursuant to the standards for well affected facilities in § 60.5375a(a)(1)(i) or (ii), you must achieve the required emissions reductions within 60 days after startup of production as defined in § 60.5430a."

28. "Startup of production" is defined as "the beginning of initial flow following the end of flowback when there is continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate, or produced water, except as otherwise provided in this definition. For the purposes of the fugitive monitoring requirements of § 60.5397a, startup of production means the beginning of the continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate, or produced water." 40 C.F.R. § 60.5430a.

29. Pursuant to 40 C.F.R. § 60.5375a(a)(1), for each well completion operation with hydraulic fracturing, an owner or operator must:

> (i) [d]uring the initial flowback stage, route the flowback into one or more well completion vessels or storage vessels and commence operation of a separator unless it is technically infeasible for a separator to function. . . and
>
> (ii) [d]uring the separation flowback stage, route all recovered liquids from the separator to one or more well completion vessels or storage vessels, re-inject the recovered liquids into the well or another well, or route the recovered liquids to a collection system. Route

> the recovered gas from the separator into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If it is technically infeasible to route the recovered gas as required above, follow the requirements in paragraph (a)(3) of this section. If, at any time during the separation flowback stage, it is technically infeasible for a separator to function, you must comply with paragraph (a)(1)(i) of this section.

30. Pursuant to 40 C.F.R. § 60.5395a(b), if an owner or operator uses a control device to reduce VOC emissions from their storage vessel affected facility, the owner or operator must equip the storage vessel with a cover that is connected through a closed vent system and must route emissions to a control device. Alternatively, the owner or operator may route the closed vent system to a process.

31. Pursuant to 40 C.F.R. § 60.5397a(a)(1), an owner or operator of an affected facility "must monitor all fugitive emission components, as defined in § 60.5430a, in accordance with paragraphs (b) through (g) of this section. You must repair all sources of fugitive emissions in accordance with paragraph (h) of this section. You must keep records in accordance with paragraph (i) of this section and report in accordance with paragraph (j) of this section."

32. Pursuant to 40 C.F.R. § 60.5397a(b), an owner or operator of an affected facility "must develop an emissions monitoring plan that covers the collection of fugitive emissions components at well sites and compressor stations within each company-defined area in accordance with paragraphs (c) and (d) of this section."

33. Pursuant to 40 C.F.R. § 60.5411a(b)(1), "[t]he cover and all openings on the cover of storage vessels . . . shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel or wet seal fluid degassing system."

34. Pursuant to 40 C.F.R. § 60.5411a(b)(3), "[e]ach storage vessel thief hatch shall be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated and sealed under normal operating conditions, including such times when working, standing/breathing, and flash emissions may be generated."

35. Pursuant to 40 C.F.R. § 54.11a(d), for "for centrifugal compressor wet seal fluid degassing systems, reciprocating compressors, pneumatic pumps and storage vessels using a control device or routing emissions to a process . . . [an owner or operator] must conduct an assessment that the closed vent system is of sufficient design and capacity to ensure that all emissions from the affected facility are routed to the control device and that the control device is of sufficient design and capacity to accommodate all emissions from the affected facility, and have it certified by a qualified professional engineer or an in-house engineer with expertise on the design and operation of the closed vent system in accordance with paragraphs (d)(1)(i) and (ii) of this section."

36. Pursuant to 40 C.F.R. § 60.5420a(b), an owner or operator of an affected facility must submit annual reports containing the information specified in 40 C.F.R. § 60.5420a(b)(1)-(8) and (12)

and performance test reports as specified in 40 C.F.R. § 60.5420a(b)(9) or (10). The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410a. Subsequent annual reports are due no later than same date each year as the initial annual report.

37. Pursuant to 40 C.F.R. § 60.5410a, "the initial compliance period begins on August 2, 2016, or upon initial startup, whichever is later, and ends no later than 1 year after the initial startup date for your affected facility or no later than 1 year after August 2, 2016. The initial compliance period may be less than 1 full year."

II. FACTUAL BACKGROUND AND INSPECTION FINDINGS

38. Cunningham Energy, LLC is a West Virginia limited liability company and an oil and gas producer, engaged in the drilling of oil and gas wells to extract natural gas and oil for sale.

39. Cunningham owns at least three well pads: King, Cochran, and Morris and one tank battery: Doctor's Creek in Bomont, Clay County, WV. The Bomont Site is located at Shelton Road in Bomont, WV 25030.

40. Cunningham's office is located at 3230 Pennsylvania Avenue, Charleston, WV 25302.

41. Cunningham began operations at the Bomont Site in 2014.

42. At the time of the CAA inspection on May 6, 2021, Cunningham's King and Cochran well pads were being operated by Summit Petroleum, Inc. ("Summit"), an Ohio corporation that conducts petroleum and pipeline operations, including maintenance and management of well pads.

43. Summit's corporate office is located at 9345 Ravenna Road, Unit A, Twinsburg, Ohio 44087.

44. According to evidence gathered during the CAA inspection and Cunningham's November 17, 2021 response to the EPA's June 10, 2021 CAA Information Request Letter ("CAA IRL"), Summit assumed control of the day to day operation of the Bomont Site in January 2021. The wells at the King and Cochran Pads were brought back into service in February 2021.

45. The Bomont Site is located in Clay County, West Virginia is, which has been in attainment for the 2015 8-hour Ozone NAAQS since the construction of the site. 82 Fed. Reg. 54232 (Nov. 16, 2017).

EPA Inspection and Inspection Findings

46. On May 6, 2021, an EPA inspector, accompanied by a West Virginia Department of Environmental Protection ("WVDEP") Inspector, conducted a CAA Inspection at the Bomont Site ("Inspection") to verify compliance with applicable State and Federal regulations.

47. Representatives from Cunningham were not present at the Bomont Site during the Inspection, however, representatives from Summit were present during the Inspection.

48. No records were provided by Summit during the Inspection

49. On June 10, 2021, the EPA issued a CAA IRL, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a).

50. On November 17, 2021, Cunningham provided a partial response to the EPA's June 10, 2021 CAA IRL.

King Pad

51. During the Inspection, the EPA Inspector observed ten (10) storage tanks, four (4) horizontal wells, one (1) vertical well, four (4) two phase separators, and two (2) temporary frac water tanks.

52. During the Inspection, the EPA Inspector observed that none of the five of the wells at the King Pad were in production.

53. During the Inspection, the EPA Inspector observed that the King Pad did not have a Vapor Recovery Unit ("VRU") Compressor Engine or an enclosed combustor.

54. During the Inspection, the EPA Inspector observed vapors from the thief hatch on TK-9412 using a Forward Looking Infrared ("FLIR") camera. The EPA Inspector also observed liquids on the tank surface around the thief hatch on multiple tanks at the King Pad.

55. During the Inspection, the EPA Inspector, using a FLIR camera, observed emissions from the end of a pipe on the ground that was connected to the vapor header on the storage tanks at the King Pad.

Cochran Pad

56. During the Inspection, the EPA Inspector observed that the Cochran Pad had six (6) wells, eighteen (18) storage tanks, one (1) enclosed combustor, and two (2) compressor engines.

57. During the Inspection, the EPA Inspector observed that none of the six (6) wells at the Cochran Pad were in production.

58. During the Inspection, the EPA Inspector observed that the pilot light in the enclosed combustor at the Cochran Pad was not lit and the make and model of the combustor could not be identified.

59. During the Inspection, the EPA Inspector observed, with a FLIR camera, emissions from the thief hatches on the third tank for Well 8H, the thief hatch on Tank 9408 and the thief hatch for Tank 9410.

60. During the Inspection, the EPA Inspector observed that the small compressor at the Cochran Pad was not operating.

61. During the Inspection, the EPA Inspector observed a leak from a Kimray gas regulator valve from the small compressor to the gas sales line at the Cochran Pad.

62. At the time of the Inspection, no additional production or parametric monitoring data was provided for the Cochran Pad.

King Pad Permit

63. On December 18, 2018, the WVDEP issued Cunningham a Permit to Construct and Operate (R13-33-70) ("King Pad Permit") for the King Pad.

64. According to the King Pad Permit, the King Pad has four (4) horizontal wells (Wells 18-21), one (1) vertical well, eight (8) oil storage tanks[1] (32S, 33S, 39-44S), a Vapor Recovery System, and a 60 HP VRU Compressor Engine. Below is a list of the storage tanks, including the year in which they were installed and description:

Unit ID	**Description**	**Year Installed**
31S	Oil/Water Storage Tank	2016
32S	Oil Storage Tank	2016
33S	Oil Storage Tank	2016
34S	Oil/Water Storage Tank	2016
39S	Oil Storage Tank	2018
40S	Oil Storage Tank	2018
41S	Oil Storage Tank	2018
42S	Oil Storage Tank	2018
43S	Oil Storage Tank	2018
44S	Oil Storage Tank	2018

65. The King Pad Permit institutes a limit on Hazardous Air Pollutants ("HAP") from the pad of 10 tons per year ("TPY") for a single HAP and 25 TPY for combined HAPs. The permit also imposes emission limits on the VRU compressor engine.

66. Section 6.1.2 of the King Pad Permit states, "[t]he permittee shall route all VOC emissions (working/breathing/flashing) generated in the storage tanks 31S - 34S and 39S – 44S, to the vapor recovery unit (36C)."

[1] The terms "storage tanks" and "storage vessels" are used in this document interchangeably.

67. Section 6.1.3 of the King Pad Permit states, "[t]he Vapor Recovery Unit (36C) shall collect at least 95% of the vapors from the storage tanks 31S – 34S and 39S – 44S and transfer the collected vapors to a sales gas pipeline."

68. Section 6.2.1.b [sic] of the King Pad Permit states, "[t]he run hours of the Vapor Recovery Unit shall be daily recorded and maintained."

69. Section 7.1.3 of the King Pad Permit states, "[t]he permittee shall use a vapor recovery unit to reduce VOC emissions from storage vessel affected facilities. The permittee must equip the storage vessels with a cover that meets the requirements in section 7.1.4 and is connected through a closed vent system that meets the requirements of section 7.1.5 or as an alternative to routing the closed vent system to a control device, the permittee may route the closed vent system to a process. [40 C.F.R. § 60.5395a(b)]."

70. Section 7.1.4 of the King Pad Permit describes the cover requirements for storage vessels.

71. Section 7.1.4.1 of the King Pad Permit states, "[t]he cover and all openings on the cover (*e.g.,* access hatches, sampling ports, pressure relief devices and gauge wells) shall form a continuous impermeable barrier over the entire surface are of the liquid in the storage vessel."

72. Section 7.1.4.2 of the King Pad Permit states, "[e]ach cover opening shall be secured in a closed, sealed position (*e.g.,* covered by a gasketed lid or cap) whenever material is in the unit on which the cover is installed except during those times when it is necessary to use an opening as follows:

> (i) To add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);
> (ii) To inspect or sample the material in the unit;
> (iii) To inspection, maintain, repair, or replace equipment located inside the unit; or
> (iv) To vent liquids, gases, or fumes from the unit through a closed vent system designed and operated in accordance with the requirements of 7.1.5 to a control device."

73. Section 7.1.4.3 of the King Pad Permit states, "[e]ach storage vessel thief hatch shall be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated and sealed under normal operating conditions, including such times when working, standing/breathing, and flash emissions may be generated. The permittee must select gasket material for the hatch based on composition of the fluid in the storage vessel and weather conditions. [40 C.F.R. § 60.5411a(b)]"

74. Section 7.1.5 of the King Pad Permit describes closed vent system requirements for storage vessels using a control device.

75. Section 7.1.6 of the King Pad Permit states, "[t]he permittee must conduct an assessment that the closed vent system is of sufficient design and capacity to ensure that all emissions from the storage vessel are routed to the control device and that the control device is of sufficient design and capacity to accommodate all emissions from the affected facility and have it certified by a

qualified professional engineer in accordance with 7.1.6 (i) and (ii). . . .[40 C.F.R § 60.5.411a(d)]."

76. Section 8.1.1(a) of the King Pad Permit states, "[t]he permittee must monitor all fugitive emission components, defined as any component that has potential to emit fugitive emissions of methan or VOC at a well site."

77. Section 8.1.1(b) of the King Pad Permit states, "[t]he permittee must develop an emission monitoring plan that covers the collection of fugitive emissions components at well sites within each company-defined area in accordance with 8.1.1(c) and (d)."

Cochran Pad Permit

78. On February 21, 2017, the WVDEP, issued Cunningham a Class II General Permit to Construct and Operate (G70-D223) ("Cochran Pad Permit") for the Cochran Pad.

79. According to the Cochran Pad Permit, the Cochran Pad requires the Cochran Pad to comply with Sections 5.0 (Gas Well Affected Facility), 6.0 (Storage Vessels Containing Condensate and/or Produced Water, 7.0 (Storage Vessel Affected Facility), 12.0 (Fugitive Emissions GHG and VOC Standards), 13.0 (Reciprocating Internal Combustion Engines, Generator Engines) and 14.0 (Tanker Truck/Rail Car Loading) of the G70-D General Permit.

80. The Cochran Pad Permit institutes a limit on VOCs from the pad of 80 TPY and on HAPs from the pad of 8 TPY for a single HAP and 25 TPY for combined HAPs.

81. Section 1.1.4 of the Cochran Pad Permit requires Cunningham to prepare and submit by February 21st of each year, a G70-D Annual Certification for the previous year.

82. Section 6.1.1 of the Cochran Pad Permit states, "[t]he registrant shall determine the VOC emissions for each storage vessel (as defined in § 60.5430, 60.5430a) to determine affected facility status in accordance with the *emissions determination* required [in 6.1.1.a and 6.1.1.b]."

83. Section 6.1.3.2 of the Cochran Pad Permit states that registrants at affected facilities shall use a site specific sample to determine potential emissions.

III. FINDINGS OF VIOLATION

COUNT 1
Failure to Route All VOC Emissions from Storage Vessels 32S-33S & 39S-44S to a Control Device at the King Pad

84. During the Inspection, the EPA Inspector observed that no VRU or combustion unit (e.g. flare, enclosed combustor, etc.) was present at the King Pad.

85. During the Inspection, the EPA Inspector observed a pipe leading from the top of the tank battery to the ground. The EPA Inspector observed emissions coming from the open pipe with a FLIR camera.

86. During the Inspection, Summit indicated that the emissions were from the common header from the storage tanks at the King Pad.

87. During the Inspection, Summit indicated that the VRU had been removed from the King Pad.

88. Failure to route all VOC emissions generated in the storage tanks 31S - 34S and 39S - 44S to the VRU is a violation of Section 6.1.2 of the King Pad Permit.

89. Cunningham's failure to comply with Section 6.1.2 of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23, and the CAA.

COUNT 2
Failure to Record the Run Hours of the VRU at the King Pad

90. Based on the information currently available to the EPA, Cunningham has failed to record and maintain the run hours of the VRU at the King Pad since its permit was issued in December 2018.

91. Failure to record and maintain the run hours of the VRU is a violation of Section 6.2.1.b of the King Pad Permit

92. Cunningham's failure to comply with Section 6.2.1.b of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 3
Failure to Reduce VOC Emissions by 95% at storage vessels 31S & 34S within 60 Days of Startup at the King Pad

93. Storage Vessels 31S & 34S are "storage vessel affected facilities" under NSPS OOOOa.

94. During the Inspection, the EPA Inspector observed that the King Pad's VOC emissions were being emitted from an open-ended pipe intro the atmosphere and as a result, VOC emissions from storage vessels 31S & 34S were not reduced by at least 95% since the startup of the vessels in June 2017 and July 2018.

95. Cunningham's failure to comply with Section 6.1.3 of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23, and the CAA.

96. Additionally, the failure to reduce VOC emissions by 95% at storage vessels within 60 days of startup is a violation of 40 C.F.R. § 60.5395a(a)(2) and the CAA.

COUNT 4
Failure to Use a VRU to Reduce VOC Emissions from Storage Vessels 31S & 34S at the King Pad

97. During the Inspection, the EPA Inspector observed that the storage vessel affected facilities at the King Pad were not equipped with a VRU to reduce VOC emissions from storage vessels. Specifically, emissions from oil/water tanks 31S and 34S were not routed to a VRU.

98. Failure to use a VRU to reduce VOC emissions from storage vessels 31S and 34S is a violation of Section 7.1.3 of the King Pad Permit.

99. Cunningham's failure to comply with Section 7.1.3 of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23, and the CAA.

COUNT 5
Failure to Install a Cover on the Storage Vessels with an Impermeable Barrier at the King Pad

100. During the Inspection, the EPA Inspector observed emissions from multiple storage vessel thief hatches at the King Pad using a FLIR camera.

101. Failure to install a cover on the storage vessels with an impermeable barrier over the storage vessels at the King Pad is a violation of Section 7.1.4.1 of the King Pad Permit.

102. Cunningham's failure to comply with Section 7.1.4.1 of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23, and CAA.

COUNT 6
Failure to Conduct an Assessment of the Closed Vent System at the King Pad

103. Based on the information currently available to the EPA, Cunningham has failed to conduct an assessment of the closed vent system at the King Pad.

104. Failure to conduct an assessment of the closed vent system is a violation of Section 7.1.6 of the King Pad Permit and 40 C.F.R. § 60.5411a(d).

105. Cunningham's failure to comply with Section 7.1.6 of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 7
Failure to Monitor All Fugitive Emissions Components at the King Pad

106. Based on information submitted in Cunningham's CAA IRL response, Cunningham has failed to monitor all fugitive emissions components at the King Pad since its permit was issued in December 2018.

107. Failure to conduct fugitive leak detection monitoring at affected components at the King Pad is a violation of Section 8.1.1(a) of the King Pad Permit and 40 C.F.R. § 60.5397a(a)(1).

108. Cunningham's failure to comply with Section 8.1.1(a) of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 8
Failure to Develop and Emissions Monitoring Plan for the King Pad

109. Based on information submitted in Cunningham's CAA IRL response, Cunningham has failed to develop an emissions monitoring plan, as required by 40 C.F. R. § 60.5397a(b).

110. Failure to develop an emissions monitoring plan that covers the fugitive emissions components at the well sites is a violation of Section 8.1.1(b) of the King Pad Permit and 40 C.F.R. § 60.5397a(b).

111. Cunningham's failure to comply with Section 8.1.1(b) of the King Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 9
Failure to Comply with Recordkeeping Requirements for engine 37S at the King Site

112. Based on the information currently available to the EPA, the VRU compressor engine 37S located at the King Pad is a 60 HP SI ICE.

113. Based on the information currently available to the EPA, Cunningham has failed to record or keep records of the hours of operations of VRU compressor engine 37S at the King Pad through a non-resettable hour meter since its permit was issued in December 2018.

114. Failure to record the hours of operation and document hours and additional information for the VRU compressor engine 37S at the King Pad is a violation of 40 C.F.R. § 60.4245(b) and the CAA since at least 2017.

COUNT 10
Failure to Submit G-70 Annual Certifications for the Cochran Pad

115. Based on the information currently available to the EPA, Cunningham failed to submit an annual certification for the Cochran Pad from at least 2017-2021.

116. Failure to submit G70-D Annual Certifications for the years 2017, 2018, 2019, and 2020, is a violation of Section 1.1.4 of the Cochran Pad Permit.

117. Cunningham's failure to comply with Section 1.1.4 the Cochran Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 11
Failure to Conduct the Emissions Determination for Each Storage Vessel at the Cochran Pad

118. Based on the information currently available to the EPA, Cunningham has failed to determine VOC emissions for each storage vessel at the Cochran Pad.

119. Failure to determine VOC emissions for each storage vessel at the Cochran Pad is a violation of Section 6.1.1 of the Cochran Pad Permit.

120. Cunningham's failure to comply with Section 6.1.1 of the Cochran Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 12
Failure to Use a Site Specific Example to Determine Potential Facility VOC Emissions at the Cochran Pad

121. Based on the information currently available to the EPA, Cunningham has failed to use a site specific sample to determine potential emissions at the Cochran Pad.

122. Failure to use a site specific sample to determine potential emissions from the Cochran Pad is a violation of 6.1.3.2 of the Cochran Pad Permit

123. Cunningham's failure to comply with Section 6.1.3.2 of the Cochran Pad Permit is a violation of the WV SIP, 40 C.F.R. § 52.23 and the CAA.

COUNT 13
Failure to Submit Annual Reports for the King Pad and Cochran Pad

124. Based on information submitted in Cunningham's CAA IRL, Cunningham has failed to submit annual reports for well and storage vessel affected facilities for the King and Cochran Pads.

125. The initial compliance date for the King Site was June 2018.

126. The initial compliance date for the Cochran Pad was August 2, 2016.

127. Failure to submit annual reports for the King Pad for years 2019, 2020, and 2021 is a violation of 40 C.F.R. § 60.5420a(b) and the CAA.

128. Failure to submit annual reports for Cochran Pad for years 2017, 2018, 2019, 2020, and 2021 is a violation of 40 C.F.R. § 60.5420a(b) and the CAA.

V. ENFORCEMENT PROVISIONS

129. Sections 113(a)(1) and (3) of the Act, 42 U.S.C. §§ 7413(a)(1) and (3), provide that the Administrator may take an enforcement action, whenever, on the basis of any information available to the Administrator and following thirty (30) days notice, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of the provisions of an applicable SIP or the Act.

130. The EPA is extending Cunningham an opportunity to advise the EPA, via a conference call or in writing, of any further information the EPA should consider with respect to the alleged violations. Please reply within thirty (30) calendar days following receipt of this letter to Bruce

Augustine at (215) 814-2131 or augustine.bruce@epa.gov, or if you are represented by counsel, have your counsel reply to Hannah Leone, Assistant Regional Counsel at (215) 814-2673 or leone.hannah@epa.gov as to whether Cunningham would like to schedule such a conference. The EPA may pursue enforcement options if there is no response to this NOVOC.

12/02/2021
Date

KAREN MELVIN
Digitally signed by KAREN MELVIN
Date: 2021.12.02 16:19:32 -05'00'

Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA, Region III